

## CONDOMINIUM PUBLIC REPORT

Prepared &  
Issued by: Developer: PAUL STEVEN DAVIDSON AND CHRISTINA LOUISE SMITH  
1223 Wilshire Boulevard, #501  
Santa Monica, California 90403

Project Name(\*): Alamihi Condominium  
Address: 5-7223 Kuhio Highway  
Hanalei, Kauai, Hawaii 96714

Registration No. 5811  
(Conversion)

Effective date: September 27, 2006  
Expiration date: February 5, 2007

### Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, in any, of the project or of purchasing an apartment in the project.

**Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.**

Expiration Date of Reports. Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

### Type of Report:

- ☐ **PRELIMINARY:**  
(yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued by the developer when complete information is filed.
- ☐ **FINAL:**  
(white) The developer has legally created a condominium and has filed complete information with the Commission.  
☐ No prior reports have been issued.  
☐ This report supersedes all prior public reports.  
☐ This report must be read together with \_\_\_\_\_
- ☒ **SUPPLEMENTARY:**  
(pink) This report updates information contained in the:  
☐ Preliminary Public Report dated: \_\_\_\_\_  
☒ Final Public Report dated: January 5, 2006  
☐ Supplementary Public Report dated: \_\_\_\_\_
- And ☐ Supersedes all prior public reports  
☒ Must be read together with the Final Public Report dated January 5, 2006  
☐ This report reactivates the \_\_\_\_\_  
public report(s) which expired on \_\_\_\_\_

(\*) Exactly as named in the Declaration

*This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.*

FORM: RECO-30 286/986/189/1190/892/0197/1098/0800/0203/0104

**Disclosure Abstract:** Separate Disclosure Abstract on this condominium project:

[ X ] Required and attached to this report [ ] Not required - Disclosures covered in this report.

**Summary of Changes from Earlier Public Reports:**

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

[ ] No prior reports have been issued by the developer.

[ X ] Changes made are as follows:

1. The Declaration was amended to include a restriction on the number of bedrooms for each unit based on the size of the existing waste water disposal facility on the Property. A Second Amendment to Declaration of Condominium Property Regime of Alamihi Condominium has been recorded in the Bureau of Conveyances as Document No. 2006-148856, to note said amendment.
2. Page 20 of the Public Report is amended to include the restriction on the number of bedrooms for each unit based on the size of the existing waste water disposal facility as more fully stated in paragraphs 8, 9, 10, and 11.

## II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

A. **Declaration of Condominium Property Regime** contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

☐ Proposed

☒ Recorded - Bureau of Conveyances:

Document No. 2005-025135

Book \_\_\_\_\_ Page \_\_\_\_\_

☐ Filed - Land Court:

Document No. \_\_\_\_\_

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]:

First Amendment to Declaration of Condominium Property Regime of Alamihi Condominium dated November 29, 2005, recorded as Document No. 2005-249515.

Second First Amendment to Declaration of Condominium Property Regime of Alamihi Condominium dated August 7, 2006, recorded as Document No. 2006-148856.

B. **Condominium Map (File Plan)** shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

☐ Proposed

☒ Recorded - Bureau of Conveyances Condo Map No. 3937

☐ Filed - Land Court Condo Map No. \_\_\_\_\_

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

☐ Proposed

☒ Recorded - Bureau of Conveyances:

Document No. 2005-025136

Book \_\_\_\_\_ Page \_\_\_\_\_

☐ Filed - Land Court:

Document No. \_\_\_\_\_

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]:

2. Limited Common Elements: Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

☐ There are no limited common elements in this project.

☒ The limited common elements and the apartments which use them, as described in the Declaration, are:

☒ described in Exhibit "D" \*.

☐ as follows:

\* Note: Land areas referenced herein are not legally subdivided lots.

3. Common Interests: Each apartment will have an undivided fractional interests in all of the common elements. This interest is called the "common interests." It is used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

☐ described in Exhibit \_\_\_\_\_.

☒ as follows:

Each unit shall have appurtenant thereto an undivided one-half (1/2) interest in all common elements of the property, and the same proportionate share in all common profits and common expenses of the property (except as may be otherwise provided in the Bylaws) and for all other purposes, including voting. The percentage common interest for each unit is determined by assigning a one-half (1/2) fractional interest to both of the units irrespective of the actual land areas contained in the limited common elements appurtenant to each unit.

- E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property on or your purchase and ownership of an apartment in the project.

Exhibit "E" describes the encumbrances against the title contained in the title report dated August 10, 2006 and issued by Title Guaranty of Hawaii, Inc..

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:

- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
- B) Declaration of Condominium Property Regime, as amended.
- C) Bylaws of the Association of Apartment Owners, as amended.
- D) House Rules, if any.
- E) Condominium Map, as amended.
- F) Escrow Agreement.
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other \_\_\_\_\_

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer or through the developer's sales agent, if any. The Condominium Property Regime law (Chapter 514A, HRS) and the Administrative Rules (Chapter 107) are available online. Please refer to the following sites:

Website to access official copy of laws: [www.capitol.hawaii.gov](http://www.capitol.hawaii.gov)

Website to access unofficial copy of laws: [www.hawaii.gov/dcca/hrs](http://www.hawaii.gov/dcca/hrs)

Website to access rules: [www.hawaii.gov/dcca/har](http://www.hawaii.gov/dcca/har)

This Public Report is a part of Registration No. 5811 filed with the Real Estate Commission on October 12, 2005.

Reproduction of Report. When reproduced, this report must be on:

☐ YELLOW paper stock

☐ WHITE paper stock

☒ PINK paper stock

C. **Additional Information Not Covered Above:**

1. The use of hazardous material is restricted except as provided under Article H of the Declaration and all hazardous materials laws.
2. For the purpose of Exhibit "F" of the Final Condominium Public Report the Developer has not conducted a reserve study in accordance with § 514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.
3. Current County of Kauai ordinances allow the construction of one single family dwelling and one "additional dwelling unit" ("ADU"). As long as there is an Additional Dwelling Unit ("ADU") ordinance in effect in the County of Kauai, each of the Units shall be entitled to construct a single Condominium House (whether it is considered as the main residence or the ADU allowed to be constructed on the Property). The Developer makes no warranties or representations regarding the future of County of Kauai ordinances regarding ADUs on the ability at anytime in the future of an ADU to be constructed on the property.
4. Easement S-1 constitutes an easement for septic purposes as shown on the Condominium Map in favor of Unit B.
5. Easement C is an access and utility easement running across Unit A in favor of Unit B as shown on the Condominium Map.
6. This Public Report shall not be valid for the sale of Units A and B until the Developer submits to the Real Estate Commission appropriate documentation and a duly executed disclosure abstract identifying the designated real estate broker, if any, a copy of which shall be attached to this Public Report, together with the duly executed copy of the Broker Listing Agreement with a Hawaii-licensed real estate broker.
7. Unit A and Unit B are subject to a 100 year flood setback line as per survey of Dennis M. Esaki, Registered Professional Land Surveyor, approved on August 24, 1988. The inclusion of Units A and B within the flood plain will impact the construction of any future improvements on the property.
8. Currently a waste water system is used to dispose of the wastewater generated from the dwelling unit on Unit B. Due to the size of the wastewater disposal facility on the Property it is only currently authorized to service no more than two (2) bedrooms. Due to this restriction in the size of the current waste water treatment plant the dwelling unit to be constructed on Unit A shall be restricted to no more than two (2) bedrooms and the dwelling unit on Unit B shall be restricted to no more than two (2) bedrooms.
9. Since the dwelling unit on Unit B is served by the current waste water system no additional bedrooms or dwelling units may be serviced by the current waste water system without additional improvements that need to be constructed. In the event a dwelling unit is constructed on Unit A, Unit A shall be required to pay for the cost of upgrading the current waste water treatment system to service the additional two (2) bedrooms to be added by Unit A or construct a separate waste water treatment system meeting the requirements of the State of Hawaii Department of Health. In the event Unit A constructs a separate waste water treatment facility solely within the limited common element associated with Unit A, the restriction on the number of bedrooms for Unit A as set forth in paragraph 8 above shall be amended to not more than five (5) bedrooms or the number of bedrooms authorized to be serviced by the separate waste water treatment facility to be built within the limited common element associated with Unit A, whichever is less.
10. In the event both Unit A and Unit B is serviced by a single waste water treatment facility both units shall be restricted to no more than two (2) bedrooms each as provided in paragraph 8 above unless mutually agreed to by Unit A and Unit B.
11. No landscaping, vegetation or man-made structure shall be permitted to be planted or constructed within the area of the leach field/seepage pit associated with the waste water treatment facility that would adversely affect or interfere with the operation of the waste water treatment system (e.g., plants with invasive root systems or structures with underground foundations).

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

PAUL STEVEN DAVIDSON and CHRISTINA LOUISE SMITH  
Name of Owners/Developers

  
PAUL STEVEN DAVIDSON

August 23, 2006  
Date

  
CHRISTINA LOUISE SMITH

August 23, 2006  
Date

Distribution:

Department of Finance, County of Kauai

Planning Department, County of Kauai

***\*Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.***

## EXHIBIT "E"

### ENCUMBRANCES AGAINST TITLE

1. Any taxes that may be due and owing and tax liens that may exist, refer to Director of Finance, Kauai County.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. No access permitted into and from Alamihi Road, as per survey of Dennis M. Esaki, Registered Professional Land Surveyor, approved on August 24, 1988.
4. A 100 year flood setback line, as per survey of Dennis M. Esaki, Registered Professional Land Surveyor, approved on August 24, 1988.
5. A 7 feet wide future road widening reserve along Kuhio Highway, as per survey of Dennis M. Esaki, Registered Professional Land Surveyor, approved on August 24, 1988.
6. Easement "A", for access and utility purposes over, under, across and through a portion of the land described herein, containing an area of 2,236 square feet, as per survey of Dennis M. Esaki, Registered Professional Land Surveyor, approved on August 24, 1988.
7. The terms and provisions, including the failure to comply with any covenants, conditions, and reservations contained in that certain Deed dated October 19, 1988, filed in said Bureau of Conveyances in Liber 22482 at Page 31.
8. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

Declaration of Condominium Property Regime of "Alamihi" Condominium Project dated January 27, 2005, and recorded in said Bureau as Document No. 2005-025135.

Condominium Map recorded as Map No. 3937, and any amendments thereto.

Said Declaration was amended by First Amendment To Declaration Of Condominium Property Regime of Alamihi Condominium dated November 29, 2005, and recorded as Document No. 2005-249515.

Said Declaration was further amended by Second Amendment to Declaration Of Condominium Property Regime of Alamihi Condominium dated August 7, 2006, and recorded as Document No. 2006-148856.
9. By-laws of the Association of Apartment Owners adopted January 27, 2005, and recorded in said Bureau as Document No. 2005-025136.
10. Any lien (or claim of lien) for services, labor or material arising from an improvement or work related to the land described herein.



11. Mortgage Loan/Account No. 30523623 by and between Christina L. Smith, single, and Paul S. Davidson, single, as Mortgagors, and Mortgage Electronic Registration Systems, Inc., solely as a nominee for CMB Mortgage, Inc., a California corporation, as Mortgagee, dated February 10, 2005, and recorded in said Bureau as Document No. 2005-039894.